

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 873 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge?

No

STATE OF GUJARAT

Versus

BACHHUBHAI DINKERRAI RAVISHANKER

Appearance:

Shri M.A. Bukhari, Addl. Public Prosecutor, for
the Appellant

Shri M.M. Desai, Advocaes, for the Respondent

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 26/09/96

ORAL JUDGEMENT

The leniency of the sentence imposed on the accused by the learned Additional Sessions Judge at Bhavnagar by his order of sentence passed on 4th May 1984 in Sessions Case No. 49 of 1983 is under challenge in this appeal under sec. 377 of the Criminal Procedure Code, 1973 (the Cr.P.C. for brief). By his impugned

order, the learned Additional Sessions Judge convicted the respondent herein of the offences punishable under sec. 323 and 324 of the Indian Penal Code, 1860 (the IPC for brief) and sentenced him to simple imprisonment for 10 days and fine of Rs. 100 in default simple imprisonment for one month more for the offence punishable under sec. 323 thereof and simple imprisonment for 3 months and fine of Rs. 400 in default simple imprisonment for 2 months under sec. 324 thereof.

2. It is not necessary to set out in detail the facts giving rise to this appeal. It may be sufficient to note that the impugned judgment and order of conviction and sentence has been summarily affirmed by this Court by dismissing the appeal preferred by the respondent herein being Criminal Appeal No. 872 of 1984. The merits of the case therefore need no fresh examination.

3. I agree with learned Additional Public Prosecutor Shri Bukhari for the appellant-State that punishment imposed on the respondent accused is too lenient to be called a punishment in the real sense of the term. As rightly submitted by learned Additional Public Prosecutor Shri Bukhari for the appellant-State, discretion in award of punishment has not been judiciously exercised by the learned trial Judge. However, it is not necessary at this stage to interfere with the order of sentence after passage of nearly 12 years from its date. The incident giving rise to the criminal proceeding appears to have taken place on 23rd January 1983. The judgment and order of conviction has been passed on 4th May 1984. More than 12 years have rolled by since then. It is not desirable at this stage to upset the order of sentence after passage of more than 12 years from the date of its imposition.

4. In the result, this appeal fails not on merits but on account of passage of time. It is hereby dismissed.
